



ANNUAL GENERAL ASSEMBLY
July 9, 10, 11, 2024, Montreal, QC

Resolution no. 35/2024

TITLE: Amendments to the First Nation's Election Act to Allow Electronic Voting

SUBJECT: Governance

MOVED BY: Chairperson Khelsilem, Squamish Nation, BC

SECONDED BY: Chief Byron Louis, Okanagan Indian Band, BC

DECISION Carried; 3 Opposition; 1 Abstention

WHEREAS:

- A.** The *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) states:
- i. Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior, and informed consent before adopting and implementing legislative or administrative measures that may affect them.
 - ii. Article 33(2): Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.
- B.** The *First Nations Elections Act* (FNEA) is an opt-in piece of federal legislation designed to provide a framework for First Nations Band Council elections. Between 2008 and 2011, the Assembly of Manitoba Chiefs and the Atlantic Policy Congress of First Nations Chiefs worked on recommendations and consulted with other First Nations leaders to improve the election process for First Nations. The FNEA is the result of their research and recommendations and was created to address challenges under the *Indian Act*.
- C.** Section 41(f) of the FNEA allows for the Governor in Council to make regulations with respect to elections, including the manner in which voting is to be carried out. Currently the FNEA does not specifically provide for online voting.
- D.** First Nations have the option for mail-in voting in many of our communities. Mail-in ballots are useful for band members living off-reserve, allowing for all members to participate in First Nation elections. As First

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Nations communities develop, so should their use of election technology. Online voting can enhance participation, self-determination, and governance.

- E. After the recent global pandemic, the importance of remote and electronic voting is evident. During the pandemic, many First Nations were encouraged to postpone elections, potentially leaving a governance gap. First Nations should be taking steps now to prevent this from happening again in the future.
- F. Studies have shown the effectiveness of electronic voting in First Nation communities—participation is increased and elections become more accessible to those living on and off-reserve.
- G. Online voting would allow for more First Nations to take control of membership and membership rules under section 10 of the *Indian Act* by making elections more accessible, as consent under the *Indian Act* is only achieved when a “double majority” voting threshold is met.

THEREFORE BE IT RESOLVED that the First Nations-in-Assembly:

1. Call on Canada to work with First Nations on adding a regulation under section 41 to the *First Nations Elections Act* allowing for participating First Nations to use electronic and remote voting in First Nations elections where they so choose.
2. Once engagement with First Nations has occurred, urge the Governor in Council to make a regulation under section 41(f)(iv) of the *First Nations Elections Act* with respect to electronic and remote voting, allowing First Nations under the Act to opt-in to electronic and remote voting in their elections.

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Chixelhouse.

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